

DANIEL SCOTT HARAWA

Washington University in St. Louis School of Law
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ACADEMIC APPOINTMENTS

Washington University in St. Louis School of Law

Associate Professor of Law, January 2021-Present

Assistant Professor of Practice, July 2019-December 2020

Courses: Evidence; Criminal Law; Appellate Clinic, which represents clients in criminal and civil rights cases before the United States Courts of Appeals and the Supreme Court

Service: Appointments Committee (2021-23); Honor Code Officer (2019-21); Faculty Advisor, Black Law Students Association and Outlaw

New York University School of Law

Visiting Professor of Clinical Law, Fall 2022

EDUCATION

Georgetown University Law Center

J.D., *cum laude*, 2012

University of Richmond

B.A., *magna cum laude*, Sociology & American Studies, 2009

LEGAL EXPERIENCE

NAACP Legal Defense and Educational Fund, Inc., Washington, DC

Of Counsel, 2019-Present

Advise on appellate strategy and criminal justice and policing reform campaigns. Draft briefs before the Supreme Court, federal courts of appeals, and state courts of last resort explaining the racial implications of major cases. Represent Black client sentenced to death in Alabama, where race-based discrimination tainted his case.

Assistant Counsel, 2017-2019

Litigated racial justice issues before the Supreme Court, United States Courts of Appeals, and state supreme courts, including qualified immunity, discrimination in jury selection, voting discrimination, the discriminatory application of the death penalty, and discrimination against immigrant communities. Member of voting rights litigation team challenging Alabama's photo ID law. Counsel in school desegregation cases ensuring schools continue to follow desegregation plans implemented after *Brown v. Board of Education*.

Public Defender Service for the District of Columbia, Washington, DC

Appellate Staff Attorney, 2014-2017

Briefed and argued cases before the D.C. Court of Appeals on a wide range of issues, including constitutional claims, evidentiary disputes, and novel questions of statutory interpretation. Consulted with trial attorneys on legal strategies such as issue preservation and litigated motions in D.C. Superior Court.

Covington & Burling, LLP, Washington, DC

Litigation Associate, 2013-2014

Advised Fortune 100 companies on consumer product safety matters and represented them before the Consumer Product Safety Commission. Counseled corporate clients on employment-related matters. Maintained an active pro bono practice, including successfully briefing and arguing a prisoner civil rights case in the Fourth Circuit.

United States Court of Appeals for the Fourth Circuit, Richmond, VA

Law Clerk to the Honorable Roger L. Gregory, 2012-2013

Publications

Law Review Articles & Essays

Whitewashing the Fourth Amendment, 111 GEO. L.J. (forthcoming 2023)

Weaponizing Race, 20 OHIO ST. J. CRIM. L. (forthcoming 2022) (invited essay)

Lemonade: A Racial Justice Reframing of the Roberts Court's Criminal Jurisprudence, 110 CALIF. L. REV. 681 (2022)

Antiracism in Action, 78 WASH. & LEE L. REV. 1027 (2021) (with Brandon Hasbrouck) (invited essay)

The False Promise of Peña-Rodriguez, 109 CALIF. L. REV. 2121 (2021)

Black Redemption, 48 FORDHAM URB. L.J. 701 (2021) (invited essay)

Sacrificing Secrecy, 55 GA. L. REV. 593 (2021)

Manning v. Caldwell: A Harbinger?, 71 S.C. L. REV. 759 (2021) (invited comment)

How Much is Too Much? A Test to Protect Against Excessive Fines, 81 OHIO STATE L.J. 65 (2020)

Social Media Thoughtcrimes, 35 PACE L. REV. 366 (2014) (invited symposium article)

The Post-TSA Airport: A Constitution-Free Zone?, 41 PEPP. L. REV. 1 (2013)

A Numbers Game: The Ethicality of Law School Reporting Practices, 24 GEO. J. LEGAL ETHICS 607 (2011) (student note)

Book Chapter

The Black Male, TRAYVON MARTIN, RACE, AND AMERICAN JUSTICE: WRITING WRONG (2014)

Selected Commentary

[Perhaps Defining an ‘Occasion’ is Not So Different After All](#), SCOTUSblog, Mar. 8, 2022

[The Racial Justice Gambit](#), DUKE CTR. FOR FIREARMS L.: SECOND THOUGHTS BLOG (Jan. 5, 2022)

[A Hypothetical-Filled Argument Proves How Tricky it is to Define an ‘Occasion’](#), SCOTUSblog, Oct. 5, 2021

[What’s an “Occasion”? Scope of Armed Career Criminal Act Depends on the Answer](#), SCOTUSblog, Oct. 1, 2021

[Trials Without Justice](#), INQUEST, Sept. 21 2021 (reviewing Carissa Bryne Hessick’s *Why Plea Bargaining is a Bad Deal*)

[Are Secret Juries Bad for Black People?](#), CALIF. L. REV. ONLINE (Feb. 2021)

[Argument Analysis: Two Paths Forward in Lawsuit Alleging Unconstitutional Police Violence](#), SCOTUSblog, Nov. 10, 2020

[Case Preview: When Does a Statutory ‘Judgment Bar’ Prevent Lawsuits against Federal Officers for Constitutional Violations?](#), SCOTUSblog, Nov. 6, 2020

[Senate Bill Would Disempower Elected Prosecutor, Disenfranchise St. Louis Voters](#), ST. LOUIS AMERICAN, May 1, 2020 (with Kimberly Norwood)

[DC Must Protect its Inmates from Coronavirus](#), WASHINGTON POST, Apr. 8, 2020 (with Ben Miller)

[Democrats Should Stop Saying Some People Should Die in Prison](#), SLATE, Jan. 22, 2020 (with Ben Miller).

[Why the Attorney General’s Concern about Crime Victims and their Families Rings Hollow](#), THE APPEAL, Jan. 6, 2020 (with Ben Miller)

[Why America Needs to Break its Addiction to Long Prison Sentences](#), POLITICO MAGAZINE, Sept. 3, 2019 (with Ben Miller)

[The Supreme Court Must Rule that Juries Can’t Sentence a Man to Death Because He is Gay](#), SLATE, Apr. 2, 2019

Selected Litigation Experience

Supreme Court of the United States

Thomas v. Lumpkin, 21-444 (2021)

- Filed a certiorari petition on behalf of *Andre Thomas*, who is sentenced to death in Texas, arguing that his jury was tainted by unconstitutional racial discrimination given that many of the jurors openly opposed to interracial marriage in a case involving a cross-racial crime.

Johnson v. Indiana, U.S. No. 20-7612 (2021)

- Filed a certiorari petition on behalf of *Michael Johnson*, arguing that an officer who frisks a person without reason to believe that the person is armed violates the Fourth Amendment.

Goffin v. Ashcraft, U.S. No. 20-1362 (2021)

- Filed a certiorari petition on behalf of *Davdrin Goffin*, who was shot in the back by a police officer despite the fact that he was unarmed, arguing that the officer should not be entitled to qualified immunity.

McMillan v. Alabama, U.S. No. 20-193 (2020)

- Filed an amicus brief arguing that an Alabama law that permitted judges to override a jury's recommendation for life in prison and sentence a defendant to death was unconstitutional because it allowed racial bias to influence capital sentencing.

Torres v. Madrid, U.S. No. 19-292 (2020)

- Filed an amicus brief arguing that police use of weapons during a traffic stop constitutes a Fourth Amendment seizure, particularly when considering police violence perpetrated against Black people.

Dept. of Homeland Security v. Board of Regents of the University of California, 140 S. Ct. 1891 (2020)

- Filed an amicus brief arguing that the Administration's rescission of DACA was motivated by anti-Latinx bias and therefore violated the Equal Protection Clause of the Fourteenth Amendment.

Ramos v. Louisiana, 140 S. Ct. 1390 (2020)

- Filed an amicus brief arguing that the racist history of Louisiana's non-unanimous jury provision underscores its unconstitutionality, and arguing that the law undermined the full political participation of African Americans.

Timbs v. Indiana, 139 S. Ct. 682 (2019)

- Filed an amicus brief arguing that the Court should consider how fines are disproportionately imposed against African Americans and the history of using financial punishment to subordinate Black people when deciding whether the Excessive Fines Clause of the Eighth Amendment should apply to the States.

Stevens Rucker v. Frenz, U.S. No. 18-684 (2019)

- Filed a certiorari petition on behalf of Patti-Stevens-Rucker, whose son—a Black military veteran—was shot and killed by police, arguing that qualified immunity should not shield the officers.

Callwood v. Jones, U.S. No. 17-1569 (2018)

- Filed a certiorari petition on behalf of Gladys Callwood, whose son—a young Black man suffering a mental health crisis—was tased to death by police, arguing that qualified immunity should not shield the officers.

Federal Courts of Appeals

Greater Birmingham Ministries v. Merrill, 966 F.3d 1202 (11th Cir. 2020)

- Represented community organizations and Black and Latinx voters challenging Alabama’s photo ID requirement to vote as discriminatory in violation of the Voting Rights Act and Fourteenth Amendment.

United States v. Bess, 80 M.J. 1 (C.A.A.F. 2020)

- Filed an amicus brief arguing that the military’s process of convening court-martials is unconstitutional because it allows for the purposeful exclusion of Black service members.

Norman Brown v. Precythe, No. 19-2910 (8th Cir. 2020)

- Filed an amicus brief arguing that Missouri’s procedures for resentencing juveniles sentenced to life in prison without parole were unconstitutional and that the procedures have led to the over incarceration of Black youth.

State Supreme Courts

State of Missouri v. Lamar Johnson, 617 S.W.3d 439 (Mo. 2021)

- Represented the Circuit Attorney for the City of St. Louis, arguing that as an elected prosecutor, she has the authority to remedy a wrongful conviction.

People v. Miles, 464 P.3d 611 (Cal. 2020)

- Filed an amicus brief arguing that prosecutors used purportedly race-neutral voir dire questions that were specifically designed to target and remove Black potential jurors.

Robinson v. United States, 142 A.3d 565 (D.C. 2016)

- Represented defendant arguing that police interrogation tactics undermined the importance of an attorney and thus violated the Fifth Amendment.

Selected Presentations

2022: *Whitewashing the Fourth Amendment*, University of Maryland Carey School of Law Legal Theory Workshop; *Whitewashing the Fourth Amendment*, Chicagoland Junior Scholars Conference; *Whitewashing the Fourth Amendment*, The Clinical Law Review Writers Workshop; *Whitewashing the Fourth Amendment*, Law and Society Annual Meeting; *Lemonade*, University of Florida Levin College of Law; *Revoking the Irrevocable Punishment*,

Washing & Lee University School of Law; *Leveraging the History of Racism*, AALS Clinical Conference; *Trans Children and the Family*, Washington University School of Law

2021: *Race and the Second Amendment*, Duke Law School • *Lemonade*, Equality Law Scholars' Forum, Boston University School of Law, *Lemonade*, Chicagoland Junior Scholars Conference, Loyola University Chicago School of Law • *Lemonade*, Junior Faculty Forum, University of Richmond School of Law • *Lemonade*, The Clinical Law Review Writers Workshop, New York University School of Law • *The Roberts Court's Criminal Treatment of Race*, University of Maryland School of Law • *Reimagining Justice*, Columbia Law School • *Judge Gregory's Antiracist Jurisprudence*, Washington & Lee University School of Law • *Guilty People with Abbe Smith*, Washington University School of Law

2020: *Two Pandemics, One Election: The Future of Justice*, Washington University Gephardt Institute • *The Death of Breonna Taylor*, Washington University School of Law • *The False Promise of Peña-Rodriguez*, ABA-AALS Academy for Justice Roundtable • *The False Promise of Peña-Rodriguez*, Chicagoland Junior Scholars Conference • *The False Promise of Peña-Rodriguez*, The Clinical Law Review Writers Workshop, New York University School of Law • *Review of the Supreme Court's Term, Criminal Cases*, American Bar Association Criminal Justice Section • *LGBTQ Clinicians and the Fight for Racial Justice*, AALS Conference on Clinical Legal Education • *Valuing Black Lives*, The Long Summer of 2020: Race and Death in the United States, Washington University School of Law • *Bias in the Jury Box*, John Mercer Langston Writing Workshop • *Criminal Justice Ethics Discussions*, Fordham Law School • *Sacrificing Secrecy*, We the Jury Symposium, Louisiana State University Paul M. Herbert Law Center

2019: *Sacrificing Secrecy*, American Bar Association Criminal Justice Roundtable • *Sacrificing Secrecy*, New England Clinical Conference • *How Much is Too Much? A Test to Protect Against Excessive Fines*, The Clinical Law Review Writers Workshop, New York University School of Law

2018: *Accountability for Unconstitutional Policing: Implementing Consent Decrees, Challenging Qualified Immunity, and Reimagining Public Safety*, NAACP Legal Defense & Educational Fund, Inc., Civil Rights Training Institute • *Religious Freedom vs. Anti-Discrimination Laws: Can Rights be Reconciled?*, Hispanic National Bar Association LGBT Summit • *Religious Freedom vs. Ant-Discrimination Laws: Can Rights be Reconciled?*, New York City Legislative Council

Selected Media Appearances

Progress in Policing Initiatives Since George Floyd's Death, Viewpoints Radio, July 24, 2022

Race, Police, and Imperfect Justice, Talks On Law, Feb. 16, 2022

Business Owners Call for Police Accountability, The Gateway Podcast, July 6, 2020

The Cruel Roadblocks to Getting Innocent People Out of Prison, The Appeal Podcast, Dec. 5, 2019

The Fight for the 14th, Bound by Oath Podcast, Dec. 19, 2018

Have been quoted or litigation has been featured in various news outlets, including: New York Times, NBC News, Associated Press, Forbes (Named Top 30 under 30 in Law, 2016), Reuters, USA Today, PBS News Hour, Politico, Law 360, National Law Journal, Bloomberg

Law, NPR, St. Louis Public Radio, St. Louis Post-Dispatch, St. Louis American, Intercept, Washington Blade, among others.

Other

Bar Admissions: District of Columbia (2013); Missouri (2019)

Court Memberships: Supreme Court of the United States; United States Courts of Appeals for the Fourth, Sixth, Seventh, Eighth, Ninth, and D.C. Circuits; United States Court of Appeals for the Armed Forces; United States District Court for the District of Columbia and Eastern District of Missouri

Service: Member, ABA Criminal Justice Amicus Committee; Faculty, National Legal Aid & Defender Association Appellate Defender Training; Faculty, Federal Judicial Center Appellate Attorney and Law Clerk Trainings; Chair, Racial Justice Committee for the AALS Clinical Section; Steering Committee Member, Harris Institute Initiative on Gun Violence & Human Rights; Mentor & Advisor, The Appellate Project; Chair, Professional Development Committee for the John Mercer Langston Writing Workshop